

REMARKS

Examiner is kindly thanked for her consideration of the present application. In the June 14, 2005 Office Action, the claims were variously rejected as anticipated under 35 USC 102 by Starling (WO 00/55031), Kiss (US Patent No. 4,759,091), and Hansen (US Patent No. 3,208,597). Further, certain claims were rejected under 35 USC 112, first paragraph. Although the Applicant disagrees with the rejections and several conclusions reached in the Office Action, claims have been amended to place them in condition for allowance. Accordingly, Applicant respectfully reserves the right to appeal and to present the previously presented claims in a future continuation, divisional, continuation-in-part application, and appeal. Pursuant to 37 C.F.R. 1.111, Applicants request reconsideration of the application.

102(B) REJECTIONS

Starling is Moot

Claims 21, 23-25, and 38-42 were rejected under 35 U.S.C. 102(b) as being anticipated by Starling. These claims have been cancelled; therefore, the Starling rejections are moot.

Kiss

Claims 21-24, 26-28, 38, and 41-44 were rejected under 35 U.S.C. 102(b) as being anticipated by Kiss. All but claim 26 has been cancelled. Applicant has carefully considered the Kiss reference in light of the present invention. Claim 26 includes (1) a tire hanger configured to removably engage a horizontal support member and (2) a middle section having a length suitable for engaging the hook configuration with a wheel.

Under 35 U.S.C 102, every limitation of a claim must *identically* appear in a single prior art reference for it to anticipate the claim. *See Gechter v. Davidson*, 116 F.3d 1454 (Fed. Cir. 1997). There must be *no difference* between the claimed invention and the reference disclosure. *See Scripps Clinic & Research Foundation v. Genentech, Inc.*, 927

F.2d 1565 (Fed. Cir. 1991). Anticipation can be found only when the reference discloses *exactly* what is claimed. See *Titanium Metals Corp. v. Banner*, 778 F.2d 775 (Fed. Cir. 1985).

The Kiss hanger is NOT removable

Kiss does not teach a tire hanger configured to engage a horizontal support member **removeably**. Instead, Kiss teaches a **non-removable** brush hanger. The brush hanger engagement 8 of Figure 3 prevents the hook 6 from being removed without tremendous distortion and probable breakage of the horizontal shower member 1 or hook 6. The hook in Kiss, quite simply, is not removable. What is removable in Kiss is the brush assembly that hangs on the hook. This fact is clear from the specification that states, “The handles 9 are disposed on the base vertical side walls to permit convenient *handling of the brush assembly when moving same* from a stowed position on hanger 7 to an operative position in place on a tub or shower wall surface.” See Kiss at column 2, line 13 (emphasis added). Thus, Kiss teaches a removable brush and not a removable hook. Thus, the non-removable hook of Kiss does not anticipate or make obvious the explicitly removable hook claimed by Applicant here. If anything, Kiss teaches away from a removable hook, instead choosing to fix the hook essentially permanently and to make the brush removable.

Kiss has no middle section at all – much less one with a length suitable for engaging a wheel

Kiss does not teach, as claimed “a middle section *with a length suitable for engaging the hook configuration with a wheel*.” Instead, Kiss teaches away from a middle section with any length at all. First, as a brush hanger for a shower an extending middle section with a hook would be extremely dangerous to any shower user. Indeed, Kiss states the problem with prior art arrangements “is their more or less permanent fixation on a wall surface which hinders periodic cleaning, bathing or showering and detracts from room appearance...*the known units reduce shower stall or tub areas* when left in place.” See Kiss at column 1, line

19. Second, Kiss discloses *suction cups on the back of the brush to attach to the wall* and prevent movement of the brush while hanging: (1) “The base is equipped with sheet of material having a multitude of suction cups and lever means to assist the user in base removal from a wall surface” and (2) “Suction cup member 11 includes a multitude of suction cups 12 to provide for secure attachment of the brush assembly to a wall surface at a selected height without risk of accidental dislodgement.” See Kiss at column 1, line 25 and column 2, line 16. The brush would *not be capable of suctioning to the wall if the middle section of the brush hook extended it even slightly* from the shower wall. See especially Figure 3. See *In re Spinnoble*, 405 F. 2d 578 (CCPA 1969) (references teach away since it would produce a seemingly inoperative device). Thus, Kiss does not teach a middle section suitable for engaging a tire, teaches away from even a slight extension, and is incapable of performing the intended use. Accordingly, claim 26 and its dependent claims 29, 48, 49, and 50 are not anticipated by Kiss because each limitation of the claims are not identically and exactly taught by Kiss with no difference.

Kiss is not configured to engage a vehicle hoist

Claim 26 requires that the device is: “configured to removeably engage a horizontal support member of a vehicle hoist . . . [the device having a] . . . first end arranged to be mounted by at least partially circumscribing the horizontal support member . . .”.

Note specifically, this is not a mere distinction based on intended use as previously argued by the Office, but a structural limitation, regarding the structural configuration of the device itself. Kiss is not configured to engage a “horizontal support member of a vehicle hoist.” On the contrary, Kiss’ is configured to hang from the edge of a shower stall. That is not the same physical configuration. Because it is not so configured, it lacks the claimed feature, and does not anticipate.

Claim 29 is not anticipated by Kiss for the additional reason that Kiss does not teach or fairly suggest a pivotable joint.

Hansen

Claims 21-47 were rejected under 35 U.S.C. 102(b) as being anticipated by Hansen. Of these, all but claims 26, 29, and 30 have been cancelled. Applicant has carefully considered the Hansen reference in light of the present invention. As discussed previously, Hansen does not anticipate claim 26 unless it *identically* and *exactly* teaches every limitation of the claim with *no difference*.

Hansen is not configured to engage a wheel

Hansen does not teach a hook configuration to engage a wheel. Instead, Hansen teaches a loop band to “fit any size hat and hold the hat in shape.” See Hansen at column 1, line 18. The Hansen hat hanger includes an “elongated brace member 16 [having] down-turned end portions 24 and 26 [and] a loop band 28.” See Hansen at column 1, line 58 and Figures 1, 5. The loop band circumscribes the brace member and adjustably attaches to the brace member at the down-turned end portions. The *loop band and elongated brace member with down turned end portions would not serve as a suitable hook configuration to engage a wheel because a wheel would be unable to attach and the loop would actually frustrate the attempt*. Further, the loop band of Hansen may not be removed because Hansen states that both the loop band and the elongated member *must be present* for the invention to function: “It should be pointed out that without the inclusion of both the adjustable brace member 15, and adjustable loop band 28, *it would not be possible* to achieve adjustability in the diameter of the loop....” See Hansen at column 3, line 3.

Hansen teaches away from a hook configuration to engage a wheel

Furthermore, Hansen teaches away from a hook configuration to engage a wheel because the Hansen elongated member would be unable to support a wheel even if it were capable of attaching, which it is not. Hansen requires “an elongated member constructed

from a *plastic sheet material*, such as polyethylene, or *from any other material having sufficient flexibility....*” See Hansen at column 2, line 49. Tires are quite heavy and require a hook configuration that is *not flexible*. Thus, Hansen does not teach a hook, teaches away from a hook, and is incapable of performing the intended use of engaging a tire.

Hansen does not teach mounting without fasteners by conveying weight to the wrap section

Hansen does not teach a first end arranged to be mounted on a horizontal member of a vehicle hoist without the need for fasteners wherein weight bearing upon the hook is conveyed to the first end to secure it on the support member. Instead, Hansen teaches a hat hanger arranged to be attached to a door or wall *using fasteners or to be secured with friction to a vertical member having a rectangular cross-section in a vertical plane*: “[T]he U-shaped end portion 39 is provided with a keyhole 40 that can be used to attach the *hanger to a screw* (not shown) that may be affixed to a wall or other surface. Alternatively, the U-shaped end portion 39 permits the device to be frictionally secured over the top edge of a door or other *vertical member having a rectangular cross-section in a vertical plane*.” See Hansen at column 2, line 17 (emphasis added). ***Thus, Hansen only teaches mounting without fasteners when there is a door or other vertical member in a vertical plane as further illustrated in Figure 6.*** The reason for this requirement is apparent when viewing the support extension 41 in Figures 1 and 6. In Hansen, the weight of the hat is conveyed to the support extension 41 that provides support through a force returned by the door or other vertical plane.

Therefore, *if the Hansen invention was attached to a horizontal support beam of a vehicle hoist lacking a vertical plane to provide support, a weight bearing on the hat hanger portion would result in the hanger rotating under and detaching from the horizontal support member.* This undesirable result would be magnified with heavier loads like tires. Accordingly, Hansen does not anticipate claim 26 or its dependent claims 29, 48, 49, and 50

because the reference does not identically and exactly teach every element of the claim with no difference. Again, these distinctions are not merely distinctions in intended use, but structural differences embodied in the claims themselves.

Hansen does not teach rigid material construction

Claim 50 is not anticipated by Hansen for the additional reason that Hansen does not teach but instead expressly teaches away from a tire hanger constructed from a rigid material. Instead, Hansen requires “an elongated member constructed from a plastic sheet material, such as polyethylene, or *from any other material having sufficient flexibility....*” See Hansen at column 2, line 49.

Claim 30 includes the limitations of claim 26 further including a middle section with a pivotable joint. Accordingly, claim 30 and its dependent claims 51, 52, and 53 are not anticipated by Hansen for the same reasons set forth for claim 26.

Claim 53 is not anticipated by Hansen for the additional reason that Hansen does not teach and expressly teaches away from a tire hanger constructed from a rigid material. Instead, Hansen requires “an elongated member constructed from a plastic sheet material, such as polyethylene, or *from any other material having sufficient flexibility....*” See Hansen at column 2, line 49.

SECTION 112, FIRST PARAGRAPH REJECTIONS

Claims 25, 29, 30-37, 39, 40, and 45-47 were rejected under 35 U.S.C. 112, first paragraph because the Examiner stated the specification is only enabling for articulation with overlapping parts. Applicant respectfully and emphatically disagrees, and intends to pursue this issue further in a continuation. However, in view of the unduly long prosecution on behalf of a resource-constrained applicant, at present, of these claims, all but 29 and 30 have

been cancelled. Claims 29 and 30 have been amended to include a pivotable joint formed from overlapping parts.

NEW CLAIMS

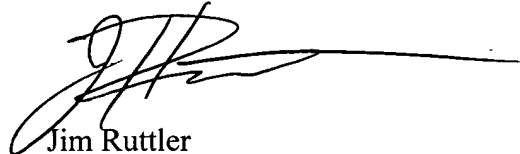
Dependent claims 48-53 are newly presented. Independent claim 54 and its dependent claims 55, 56, and 57 are also newly presented. Independent claim 58 is newly presented. No new matter has been added.

CONCLUSION

Examiner is thanked again for her careful attention to this application. Applicant submits that the present claims are enabled, novel and non-obvious over the prior art. Accordingly, Applicant requests allowance and early passage of the claims through issuance.

Respectfully submitted,

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EXPRESS MAIL CERTIFICATE

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Date of Deposit



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